

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

19-CR-227-LJV

JOSEPH BONGIOVANNI,

Defendant.

GOVERNMENT'S SUPPLEMENTAL REQUEST TO CHARGE

THE UNITED STATES OF AMERICA, by and through its attorney, Trini E. Ross, United States Attorney for the Western District of New York, Joseph M. Tripi, Nicholas T. Cooper, and Casey L. Chalbeck, Assistant United States Attorneys, Corey R. Amundson, Chief, United States Department of Justice, Public Integrity Section, and Jordan Dickson, Trial Attorney, United States Department of Justice, Public Integrity Section, of counsel, hereby files its supplemental requests to charge.

DATED: Buffalo, New York, March 25, 2024.

TRINI E. ROSS
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SUPPLEMENTAL REQUEST TO BE INCLUDED AFTER PROPOSED CHARGE NO. 3

In Counts 1 and 2, the defendant is charged with conspiring to accomplish two different illegal objectives or goals. The first object the defendant is alleged to have agreed to accomplish is to defraud the United States and its agency — the DEA. The second object charges that the defendant agreed to commit bribery. It is not necessary for you to find that the conspiracy charged in each count embodied both of these unlawful objectives. It is sufficient if you find beyond a reasonable doubt that defendant agreed, expressly or impliedly, with another on either of the two objectives — to defraud the United States or to commit bribery. An agreement to accomplish either of these objectives is sufficient. If the Government fails to prove that at least one of the two objectives was an object of the conspiracy in which the defendant participated, then you must find the defendant not guilty on the relevant count. However, if you find that the defendant agreed with another to accomplish either of the two objectives charged, then you may find the defendant guilty of conspiracy if you find the other elements of the crime satisfied. However, you must all agree on the specific object the defendant agreed to try to accomplish. Likewise, it is not necessary for you to find that any alleged objective was to be accomplished by all of the means described in the Indictment. Here again, it is sufficient if you find beyond a reasonable doubt that an objective of the conspiracy — defrauding the United States or committing bribery — was to be accomplished by any of the means alleged. ¹

¹ Adapted from *United States v. Helmsley*, 941 F.2d 71, 91 (2d Cir. 1992) (noting district court's charge ensured juror unanimity on conspiracy charge).